

The Special Education Process

For presentation to the Kentucky Board of Education
February 2005

The following is a brief outline (in the order in which it occurs) of the process for determining eligibility and programs for students who need special education services. Major special education terminology emerges from a review of this process.

Referral – A referral for evaluation can be made by anyone (teacher, parent, etc.) who has reason to think a student has a disability that is adversely affecting the student's educational performance. (Teachers make most referrals). There is no required specificity to the content of referrals, but school districts have forms that request personally identifiable information, areas of concern and other known information about the educational performance of the child. Once the referral is made, the district must convene an *Admissions and Release Committee* (ARC) meeting to discuss it. An ARC must have a regular education teacher, a special education teacher, a representative of the district, the parent(s), the student, if appropriate, and invited others that have an interest in the student. At this ARC meeting, the group gathers information about the student's performance, educational history, information from other schools or agencies, and pertinent family information to see if the initial concern is supported by this information. If the ARC agrees that there is a reason to *suspect* a disability, then the ARC plans multidisciplinary evaluations. The parent(s) must be told of this plan and the purpose of the evaluations. The district cannot conduct any evaluations until the parents have given their written informed consent.

Potential issues:

- referrals from teachers or other staff may be fueled by the desire to have the student removed from his or her current setting;
- referrals from parents or family members may be motivated by the wish to receive Social Security benefits for the child;
- referrals are subjective and could be predicated along one's biases, beliefs or expectations for certain children, leading to the referral of children who don't need it but rather may need differentiated instruction; and
- poor educational performance of the student may be the result of inappropriate instructional strategies and not a disability.

Policy considerations:

- Does the state need a standardized referral system and forms? Do we need to provide more specificity for the process?
- Is there a need for state criteria or guidelines that provide better understanding for removing subjectivity and bias from the referral process?
- How can school staff and parents be better informed about the true purpose of a referral and what it means?

- How can inappropriate referral practices be discovered so that students will not be inappropriately labeled?
- How do we address that poor performance of any student is an issue for the entire school and not just special education?

Evaluation – If an ARC decides there is a *suspected* disability and plans a *multidisciplinary* evaluation for the student, the school district is responsible for ensuring the evaluation is conducted. The district determines who will actually conduct the evaluations. This is usually district staff or someone under contract to the district. Once the personnel are chosen, it is up to the individual evaluators to decide which evaluation instruments are used. There are however, specific evaluation guidelines that guide the process. The evaluation must be individually conducted and evaluation materials used must be:

- selected and administered so as not to be racially or culturally biased;
- administered using technically sound instruments that assess the relative contribution of cognitive, behavioral, physical and developmental factors;
- provided and administered in the child's native language or mode of communication and selected to ensure they measure whether the child has a disability rather than measuring English language skills;
- composed of a variety of tools that gather functional and developmental information, including parental information;
- validated for the specific purpose for which they are used;
- administered by trained and knowledgeable personnel according to instructions provided by producers of the tests;
- tailored to assess specific areas of educational need and not just to get a single intelligence quotient; and
- selected and administered so that if given to a child with impaired sensory, manual, or speaking skills, the results accurately reflect the child's aptitude or achievement, or intelligence rather than reflecting the child's impairment.

Additionally, the evaluation must be sufficiently comprehensive to identify all the child's special education and *related services* whether commonly linked to the disability suspected. The child must also be assessed in all areas related to the suspected disability, including health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. No single procedure or assessment shall be used as the sole criterion for determining whether a child is a child with a disability or in determining an appropriate educational program for the child.

Potential issues:

- Different evaluators may use different instruments which could produce different results;
- Differing instruments and results could lead to a child being identified in one school or district and not in another one; and
- Some areas of disability may not have been evaluated which would prevent the development of an appropriate program for the student.

Policy considerations:

- Is there a need for more uniformity and/or specificity in evaluation instruments?

- Do we need standardization in the evaluation process across the state?
- Do we need more instruments that more closely address cultural diversity?
- How can ARC members be better informed about the need to evaluate all suspected areas of disability?

Identification and eligibility – Once all evaluations have been completed, these reports must be shared with all ARC members (including the parent) and a second ARC meeting convened to discuss them. The ARC needs to answer these questions before a student can be determined eligible: 1) Is there a documented disability that meets the regulatory criteria for special education? There are *categorical definitions* that guide in documenting a disability and determining eligibility. For example, a student who is suspected to be have an emotional-behavioral disability (EBD) must have been provided with interventions to meet his instructional and social-emotional needs and still continues to exhibit one or more of the following, when compared to his peer and cultural reference groups, across settings, over a long period of time and to a marked degree: (a) severe deficits in social competence or appropriate behavior causing inability to build or maintain satisfactory interpersonal relationships with adults or peers; (b) severe deficits in academic performance not commensurate with the child’s ability that are related to social-emotional problems; (c) a general pervasive mood of unhappiness or depression; or (d) a tendency to develop physical symptoms or fears associated with personal or school problems. 2) Does this disability have an *adverse effect* on the student’s educational performance? Adverse effect means that the progress of the child is impeded by the disability to the extent that educational performance is significantly and consistently below the level of similar aged peers. Educational performance involves, in addition to academics, the student’s social and behavioral performance. Other issues that may be affecting a student’s performance but are not related to a disability should not be used to make this eligibility determination. Examples of these issues could be – gap in instruction, family issues, cultural issues, etc.

Potential issues:

- If the evaluations are inappropriate for the student or if all areas of suspected disability have not been conducted, the eligibility determination will be flawed;
- Simply the presence of a documented disability (such as a student who has a medical diagnosis of Attention Deficient Hyperactivity Disorder (ADHD) does not mean the student is eligible for special education services; and
- Other issues present with students may affect the ARC determination.

Policy considerations:

- How can ARC members be better informed and guided about the need to exclude issues about the student that do not relate to the student’s disability?
- Can parents be given more guidance on how a child can have a diagnosis but without adverse effect may not be eligible for special education?

IEP development – Usually in the same ARC meeting that determined eligibility, an *Individual Education Program* (IEP) is developed for the student. The purpose of this

document is to identify the prioritized needs of the student and how those needs will be addressed. It will contain annual goals and the steps to be taken to achieve those goals, how the child will participate in general education, any related services that the student will need in order to benefit from his or her education and perhaps most importantly, the specially designed instruction that is necessary to deliver the content to the student. The IEP should also contain any supports or resources that the teachers and staff will need in order to implement this program. The IEP must be in effect before special education and related services can be provided to a child with disabilities. Additionally, the IEP must be accessible to each regular education teacher, special education teacher, related services provider, and other service providers responsible for its implementation.

Potential issues:

- Many IEPs contain standardized goals and objectives that are not truly individualized to the student's unique needs;
- Not enough emphasis is placed on the discussion of specially designed instruction (including assistive technology) to enable the student to achieve success; and
- The annual goals are not always related to the student's disability such as a student who has a learning disability (LD) in reading and also has an emotional/behavioral disorder (EBD) but may only have goals addressing the EBD issues and not reading.

Policy considerations:

- What professional development is necessary to ensure that IEPs are more effective tools for impacting classroom instruction?
- How do we make special education truly "special" so that the student is receiving instruction in a method and format that accommodates his disability?

Placement decisions – Once the IEP has been developed, the ARC must determine the most appropriate setting to have it delivered. The placement must be in the *least restrictive environment (setting)*. In other words, the student should not be removed from the general education setting and non-disabled peers except to the extent necessary to implement the IEP. To the maximum extent appropriate, children with disabilities must be educated with children who are nondisabled. Although districts must be willing to provide a *continuum of alternative placements* (instruction in regular classes, special classes, special school placements, home instruction, instruction in hospitals and institutions) as dictated by a child's IEP, special classes, separate schooling or other removal of children with disabilities from the regular education environment must occur only if education in regular education with the use of supplementary aids and services cannot be done satisfactorily because of the severity of a disability. (Special classes mean resource, itinerant and self-contained. Instruction in regular classes means the special education child is taught by a regular teacher or in a *collaborative* situation where a special education teacher works with the regular education teacher). The placement decision must be made based on the IEP and the student's needs rather than on adult convenience or placement of other students. After the decision is made, the parent(s) must give written informed consent to the special education services that are

offered in the IEP. Without this consent, the school district cannot legally provide the student with any special education services.

Potential issues:

- Often placement decisions are made before the IEP is developed;
- The label of the student often drives the placement decision; for example, once a student is labeled as EBD, he/she may be automatically placed in a self-contained EBD room without a discussion of where the IEP can best be implemented;
- The student may be removed from the general education classroom and placed in a special education classroom without any discussion on what changes and accommodations could be made to the general education classroom to allow for implementation of the IEP;
- The more segregated the placement, the more likely the student will miss out on instruction by content teachers; and
- Some special education students are placed in general education classrooms without the necessary supports or collaboration.

Policy considerations:

- What professional development may be necessary to ensure general education staff is involved appropriately in the instruction of special education students?
- How do we ensure access to the general curriculum for all special education students?

Annual review of the IEP- After the IEP has been developed and the placement decision made, the IEP and the placement decision must be reviewed at least annually. The progress data that the teachers have been collecting on the student must be reviewed and any revisions to the IEP or the placement should be made after this review. Another important purpose for the review is to determine if the student continues to need special education.

Potential Issues:

- Many times there is not a good analysis of the progress data done by the ARC members so that informed decisions about revisions in the IEP are not made.
- Many times even if there are revisions in the IEP, the appropriateness of the placement is not discussed.
- Special education tends to be viewed as lifelong and few discussions are held about the student no longer needing special education (which could be the case).

Policy considerations:

- How can ARC members, including parents, be trained to make better use of the progress data on students?